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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

COLONY INSURANCE COMPANY,

Plaintiff,

v.

VACASA LLC, a Delaware Limited
Liability Company,

Defendant.

COMPLAINT

(Declaratory Judgment)

COMES NOW Plaintiff Colony Insurance Company (Colony), by and through its attorneys, and for its Complaint against Defendant Vacasa LLC (Vacasa), alleges and claims as follows:

I. PARTIES

1. Colony is, and at all times material to this action was, a corporation organized under the laws of the state of Virginia. Colony maintains its principal place of business in Illinois.

2. Vacasa is, or at all times material to this action was, a domestic limited liability company organized under the laws of the state of Delaware. Vacasa maintains or maintained its principal place of business in Oregon, and regularly conducts or conducted its business in the state of Oregon.

II. JURISDICTION AND VENUE

3. Jurisdiction is proper pursuant to 28 U.S.C. § 1332(a)(1) because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and the action is between citizens of different states.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and LR 3-2 because Defendant resides in this district.

III. FACTUAL ALLEGATIONS

5. Colony issued a commercial general liability insurance policy to Vacasa, Policy No. 103 GL 0195239-01 (the Policy), effective between March 5, 2022, and June 15, 2023.

6. The Policy provides commercial general liability insurance coverage to Vacasa pursuant and subject to the specific terms, conditions, limitations, and exclusions set forth therein.

7. California Fair Plan Association, Richard Quosig Jr., and Andrea Quosig (together, “CFPA”) filed an action against Defendant in the Superior Court of the State of California for the County of Calaveras, Case No. 23CV46841 (the Underlying Suit). A copy of the operative complaint in the Underlying Suit is

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attached hereto as Exhibit A, and is incorporated herein by reference for all intents and purposes.

8. Defendant tendered the Underlying Suit to Colony for defense and indemnification.

9. In the Underlying Suit, CFPA alleges that: (a) Vacasa contracted to manage, maintain, and supervise a private vacation rental property owned by Richard and Andrea Quosig, located at 2324 Mokelumne Drive in Arnold, California; (b) the lease agreement between Vacasa and Richard and Andrea Quosig authorizes Vacasa to process and collect payments from guests for vacation rental stays at the rental property; and (c) the lease agreement requires Vacasa to perform management functions, provide housekeeping services, and perform or arrange ordinary maintenance, repairs, and services for the rental property.

10. The lawsuit alleges that on March 22, 2022, a housekeeper acting within the course and scope of her agency or employment with Vacasa, and with the knowledge and consent of Vacasa, negligently caused a fire that resulted in substantial damage to the rental property.

11. The lawsuit alleges that Vacasa failed to manage and maintain the subject rental property and failed to properly train and supervise its employees.

12. The lawsuit alleges that the housekeeper was not qualified to perform cleaning tasks at the rental property.

13. The lawsuit alleges that the fire and ensuing damage was a direct result of Vacasa's catastrophic failure to manage and maintain the rental property,

and its failure to properly train and supervise its employees, including the unqualified housekeeper who allegedly caused the fire.

14. The lawsuit alleges that the unqualified housekeeper used a combustible oven cleaning fluid while attempting to clean the broiler compartment of a cooking range in the kitchen of the rental property.

15. The lawsuit alleges that the cleaning fluid flowed into the vent holes in the bottom panel of the oven and, when the housekeeper turned the oven “on,” vapors from the combustible oven cleaning fluid ignited and evolved into a conflagration that damaged the rental property.

16. The lawsuit alleges that the fire caused at least \$1,453,811.30 in economic damages, and that the damages are ongoing and increasing.

17. The lawsuit pleaded claims against Vacasa for negligence and breach of contract.

18. Colony denied Defendant’s tender of the Underlying Suit because the Policy does not provide coverage, or expressly excludes coverage, for the claims, liability, and damages alleged in the Underlying Suit.

19. The Policy provides in relevant part as follows:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
(CG 00 01 04 13)**

* * *

SECTION I – COVERAGES

**COVERAGE A – BODILY INJURY AND PROPERTY
DAMAGE LIABILITY**

1. Insuring Agreement

- a.** We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result.

20. In addition, the Policy includes the following exclusions and Real Estate Property Managed endorsement:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
(CG 00 01 04 13)**

* * *

SECTION I – COVERAGES

**COVERAGE A – BODILY INJURY AND PROPERTY
DAMAGE LIABILITY**

* * *

2. Exclusions

This insurance does not apply to:

* * *

j. Damage To Property

“Property damage” to:

* * *

- (4)** Personal property in the care, custody or control of the insured;

- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the “property damage” arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because “your work” was incorrectly performed on it.

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REAL ESTATE PROPERTY MANAGED (CG 22 70 04 13)

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- A. The following is added to Exclusion **j. Damage To Property** of Paragraph **2. Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability**:

2. Exclusions

This insurance does not apply to:

j. Damage To Property

“Property damage” to:

Property you operate or manage or as to which you act as agent for the collection of rents or in any other supervisory capacity.

- 21. The Policy defines “Your work” as follows:

SECTION V – DEFINITIONS

* * *

22. “Your work”:

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of “your work”; and
- (2)** The providing of or failure to provide warnings or instructions.

22. The Policy does not apply or provide coverage for Defendant’s liability, if any, for the “property damage” alleged in the Underlying Suit, because the personal property that was damaged was in the care, custody, or control of Vacasa.

23. The Policy does not apply or provide coverage for Defendant’s liability, if any, for the “property damage” alleged in the Underlying Suit, because the damage arose out of Vacasa’s operations performed on, or being performed on, the rental property.

24. The Policy does not apply or provide coverage for Defendant’s liability, if any, for the “property damage” alleged in the Underlying Suit, because the property was allegedly damaged by Vacasa’s work being performed incorrectly on the property.

25. The Policy does not apply or provide coverage for Defendant’s liability, if any, for the “property damage” alleged in the Underlying Suit, because the damaged property is property that Vacasa operates or manages, for which Vacasa acts as agent for the collection of rents, or for which Vacasa acts in a supervisory capacity.

26. Defendant disagrees with Colony’s denial of Defendant’s tender of the Underlying Suit, has demanded that Colony accept Defendant’s tender and defend Defendant against the Underlying Suit notwithstanding the express language of the Policy, and has threatened to file suit against Colony if this demand is not met.

FIRST CLAIM FOR RELIEF
(Declaratory Judgment)

27. Colony realleges and incorporates by this reference, as though fully set forth herein, its allegations in paragraphs 1 through 26 above.

28. A present and actual controversy exists regarding the respective rights of Colony and Defendant with respect to the Policy, and Colony's obligations, if any, to defend and indemnify Defendant against the claims alleged in the Underlying Suit.

29. Colony seeks and is entitled to a declaration of the rights of the parties pursuant to Fed. R. Civ. P. 57 and 28 U.S.C. § 2201.

30. Colony seeks a legal determination and declaration that Colony has no duty to defend or indemnify Defendant in relation to the Underlying Suit.

IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Colony Insurance Company prays for the following relief:

1. Judgment against Defendant and in favor of Plaintiff Colony Insurance Company on all claims for relief stated herein;
2. On Plaintiff's First Claim for Relief, a declaration that Colony does not have any duty or obligation to defend or indemnify Defendant in relation to the Underlying Suit;
3. On all of Plaintiff's claims for Plaintiff's costs and disbursements; and
4. Such other and further relief as the Court deems just and equitable.

DATED: June 28, 2024.

MALONEY LAUERSDORF REINER, PC

By /s/ Andrew C. Lauersdorf

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